



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/670,907	09/25/2003	Gisele Veilleux	GOUD:037US	6020

32425 7590 06/30/2006

FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVE.
SUITE 2400
AUSTIN, TX 78701

EXAMINER

CHOI, FRANK I

ART UNIT	PAPER NUMBER
----------	--------------

1616

DATE MAILED: 06/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/670,907	Applicant(s) VEILLEUX ET AL.	
	Examiner Frank I. Choi	Art Unit 1616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>20040409,20031204</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen (US Pat. 5,260,069) in view of Chu et al. (US Pat. 6,419,954) and Bishai et al..

Chen discloses a process of for preparation of pulsatile particles which can contain combinations of therapeutic agents in which the granule containing the active agents and swelling agent are prepared by the well known and economic roller compaction method with sieving to select granules of particular mesh size (Column 1, lines 56-68, Column 2, lines 60-65). It is disclosed that the particles can be contained in capsules or compressed into tablets with a binding agent which can dissolve promptly in any aqueous medium or be in the form of an enteric tablet to resist dissolution until after passing through the stomach (Column 5, lines 16-31).

Chu et al. disclose embodiments in which a tablet can further include untreated active agents (e.g. without coating material or in powders) in addition to the active agent-containing particles and that the active agent particles can contain vitamins or drugs, such as in which the active agent can be vitamins or drugs, such as, doxylamine succinate (Column 9, lines 59-68, Column 10, lines 15, 16). It discloses that any suitable method for granulation can be used including roll compaction (Column 12, lines 25-44).

Art Unit: 1616

Bishai et al. disclose that the combination of 10mg doxylamine succinate and 10 mg pyridoxine HCl is safe and effective in treating nausea and vomiting associated with pregnancy (NVP)(Pages 167, 170,173-177).

The prior art discloses preparation of granules containing active ingredients and excipients by the well known method of roller compaction and sieving to obtain appropriate mesh size granules which are used for form pulsatile particles which are compressed into enteric coated tablets or enclosed in capsules. The difference between the prior art and the claimed invention is that the prior art does not expressly disclose the use of more than one active ingredient, such as the combination of doxylamine succinate and pyridoxine HCl. However, the prior art amply suggests the same as the prior art discloses that the granules can include combinations of therapeutic agents, such as vitamins and doxylamine succinate and the prior art discloses the combination of doxylamine succinate and pyridoxine HCl. As such, it would have been well within the skill of and one of ordinary skill in the art would have been motivated to modify the prior art as above with the expectation that the combination of doxylamine succinate and pyridoxine in granules prepared by roller compaction and sieving to obtain appropriate mesh size would be safe and effective in treating NVP.

Therefore, the claimed invention, as a whole, would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made, because every element of the invention has been collectively taught by the combined teachings of the references.

Conclusion

A facsimile center has been established in Technology Center 1600. The hours of operation are Monday through Friday, 8:45 AM to 4:45 PM. The telecopier number for accessing the facsimile machine is 571-273-8300.

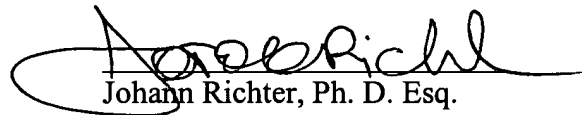
Art Unit: 1616

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frank Choi whose telephone number is (571)272-0610. Examiner maintains a flexible schedule. However, Examiner may generally be reached Monday-Friday, 8:00 am – 5:30 pm (EST), except the first Friday of the each biweek which is Examiner's normally scheduled day off.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Mr. Johann Richter, can be reached at (571)272-0646. Additionally, Technology Center 1600's Receptionist and Customer Service can be reached at (571) 272-1600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Frank Choi
Patent Examiner
Technology Center 1600
June 25, 2006


Johann Richter, Ph. D. Esq.
Supervisory Patent Examiner
Technology Center 1600